

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

SANDRA M. PETERS, on behalf of
herself and all others similarly
situated,

Plaintiff,

v.

AETNA INC., AETNA LIFE
INSURANCE COMPANY, and
OPTUMHEALTH CARE SOLUTIONS,
INC.,

Defendants.

Case No. 1:15-cv-00109-MR

**JOINT STATUS UPDATE
CONCERNING NOTICE AND
MOTION TO EXTEND TRIAL
SCHEDULE**

Plaintiff Sandra Peters (“Plaintiff”) and Defendants Aetna Inc. and Aetna Life Insurance Company (“Aetna”) and OptumHealth Care Solutions (“Optum,” and collectively “Defendants”) (i) provide the following update regarding the provision of notice to the certified classes in this case, and (ii) respectfully move the Court to extend the trial date from the Court’s civil trial term beginning on November 12, 2024 to the Court’s next civil trial term beginning on January 13, 2025 with all pretrial deadlines modified accordingly.

1. On May 7, 2024, the Court issued the Pretrial Order and Case Management Plan, setting a deadline for service of class notification of June 21, 2024, deadlines for trial briefing, and ultimately a trial date of November 12, 2024.

Dkt. 301. Although the parties have made substantial progress toward effectuating notice since that date, they recognize that this process has taken longer than anticipated and reported to the Court.

2. On June 21, 2024, the parties jointly updated the Court regarding the status of Defendants' production of data necessary to identify the names and addresses of class members so that notice could be sent to them. At that time, the parties expected that the production of such information would occur in time to enable class notice to begin on or around July 16, 2024. Dkt. 306.

3. Since early July, Plaintiff has regularly met and conferred with Aetna to obtain updates on the status of its collection of member contact information.

4. Plaintiff has also been working with a notice administrator to ensure that notice will be effectuated promptly after Plaintiff receives the class contact information. The notice administrator has advised that it needs approximately ten to fourteen days after receiving the addresses in order to mail out notice in the first instance.

5. As described below, Aetna has made progress in gathering the member contact information that is necessary for notice, but needs additional time to produce the necessary information for class notice.

6. Aetna has located approximately 85,400 addresses for members in the original 2012-2017 data set. Aetna is working to complete a search for some of the

oldest addresses from that data set now, as well as addresses for recently produced data. Aetna hopes to have this process complete in the next two weeks.

7. The parties recognize, however, that many class member addresses provided by Defendants are likely to be outdated because the class period began over a decade ago, in 2012. Accordingly, the parties expect that the notice administrator will have to expend substantial extra time locating updated and/or complete addresses for a portion of the classes. These efforts, and the anticipated need to re-send notice to class members whose addresses have changed, are likely to make it impossible to complete class notification within the time allotted in the current schedule. As a result, the parties agree that good cause exists to grant this modest extension.

8. Plaintiff also notes that her anticipated lead trial counsel at Zuckerman Spaeder, Andrew Goldfarb and Nell Peyser, will both be unavailable on or around the current November 12, 2024 trial date. Mr. Goldfarb will be traveling internationally (and has been unable to adjust his schedule) and Ms. Peyser will be on parental leave. Plaintiff respectfully believes that this provides further cause for this modest extension request.

9. In light of the foregoing, the parties request that the Court enter an amended pretrial order and case management plan, with the deadlines as follows:

Task	Current Deadline	Proposed New Deadline
The parties shall electronically file a Joint Appendix of the record with the Court	September 15, 2024	November 15, 2024
Plaintiff shall file an opening trial brief	October 1, 2024	November 29, 2024
Defendants shall file a consolidated trial brief	October 15, 2024	December 13, 2024
The parties shall file proposed findings of fact and conclusions of law	October 30, 2024	January 10, 2025
Final pretrial conference	November 1, 2024	January 14, 2025
Trial date	Civil trial term beginning on November 12, 2024	Civil trial term beginning on January __, 2025

Respectfully submitted,

Dated: August 2, 2024

/s/ Larry McDevitt

Larry McDevitt
David M. Wilkerson
Heather Whitaker Goldstein
THE VAN WINKLE LAW FIRM
11 North Market Street
Asheville, NC 28801
(828) 258-2991
lmcdevitt@vwlawfirm.com

D. Brian Hufford (*pro hac vice*)
Jason S. Cowart (*pro hac vice*)
Nell Z. Peyser (*pro hac vice*)
ZUCKERMAN SPAEDER LLP
485 Madison Avenue, 10th Floor
New York, NY 10022
(212) 897-3434
(212) 704-4256 (fax)
dbhufford@zuckerman.com

Andrew N. Goldfarb (*pro hac vice*)
ZUCKERMAN SPAEDER LLP
1800 M Street, NW, Suite 1000
Washington, DC 20036
(202) 778-1800
(202) 822-8106 (fax)
agoldfarb@zuckerman.com

*Counsel for Plaintiff Sandra M. Peters,
on behalf of herself and all others
similarly situated*

/s/ E. Thomison Holman

E. Thomison Holman
NC Bar No. 19380
HOLMAN LAW, PLLC
56 College Street, Suite 302
Asheville, NC 28801
tom@holmanlawwnc.com
Tel: (828) 252-7381
Fax: (828) 252-5018

Earl B. Austin (*pro hac vice*)
BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, NY 10112
earl.austin@bakerbotts.com
(212) 408-2500
(212) 408-2501 (fax)

*Counsel for Defendants Aetna Inc. and
Aetna Life Insurance Company*

/s/ Brian D. Boone

Brian D. Boone
NC Bar No. 38910
Michael R. Hoernlein
NC Bar No. 40419
Brandon C.E. Springer
NC Bar No. 54523
ALSTON & BIRD LLP
Vantage South End
1120 South Tryon St #300
Charlotte, NC 28203
Tel: (704) 444-1000
Fax: (704) 444-1111

brian.boone@alston.com
michael.hoernlein@alston.com
brandon.springer@alston.com

*Counsel for Defendant
OptumHealth Care Solutions, Inc.*

CERTIFICATE OF SERVICE

I certify that on August 2, 2024, I filed and served a copy of the Joint Status Report using the CM/ECF system, which will give notice to counsel of record.

/s/ Andrew N. Goldfarb